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CLEARINGHOUSE RULE 98-126

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

- a. In s. Comm 5.675 (1) (b) 2., “to” should replace the hyphen.
- b. In the treatment clause of SECTION 18, “Comm 50.18” should be inserted after “renumbered.” A similar change is needed in SECTION 20.
- c. The passive voice is used inappropriately throughout the rule. For example, see s. Comm 50.21 (6) (b) 3.
- d. The subchapter title should be placed beneath the subchapter number in subch. III. Also, the format is different for the various subchapter titles. The format should be consistent. [See s. 1.05 (2) (a), Manual.]
- e. In s. Comm 65.21 (7) (b) (intro.), the period should be replaced by a colon.
- f. Section Comm 65.23 (1) (c) (intro.) should be s. Comm 65.23 (1) (c) 1. and the subsequent subdivisions should be renumbered. This change should also be made in par. (d). [See s. 1.03 (8), Manual.]

4. Adequacy of References to Related Statutes, Rules and Forms

The cross-references in s. Comm 5.61 (1) refer to “Comm 66,” while the cross-references in s. Comm 65.02 refer to “ILHR 66.” Are both of these references correct or should one be used rather than the other?

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. In the first paragraph of the analysis, “feet” should be inserted after “square.”
- b. The definition of “design storm” in s. Comm 65.03 (6) does not appear to be necessary. The rainfall amounts used for designing erosion control measures are specified in Table 65.20. No additional explanation appears to be necessary.
- c. The phrase “in relation to” should be replaced by “under” in s. 65.03 (15).
- d. “Responsible party” is defined in s. Comm 65.03 (15) as an agent designated by the owner to act on the owner’s behalf. The rule could include a single provision stating that a responsible party is authorized to take any actions specified in the rule as responsibilities of the owner. This would avoid the need to refer to the “owner or responsible party” throughout the rule.
- e. Section Comm 65.04 relates to preexisting municipal ordinances. The corresponding statute provides in s. 101.1205 (5m), Stats., that an ordinance may continue in effect if the ***standards in the ordinance*** are more stringent than the standards promulgated by the department by rule. However, s. 65.04 (1) (a) provides that the ordinance must be more stringent than the ***requirements of this chapter***. It is suggested that the language of the rule be redrafted to conform to the statute.
- f. The phrase “under the scope of this chapter” in s. Comm 65.08 (1) (intro.) appears to be unnecessary. The term “construction site” is used in that provision, and the definition of “construction site” in s. Comm 65.03 (4) appears to define the scope of the chapter.
- g. Section Comm 65.22 (2) (b) could be clarified by substituting “after” for the second “of.”
- h. The word “other” in s. Comm 65.22 (2) (c) is unnecessary.